

Government Notice No. 80 of 2022

THE PRIVATE PENSION SCHEMES ACT 2012

**FSC Rules made by the Financial Services Commission
under Section 93 of the Financial Services Act and
Sections 17(2)(a), 18, 20, 21 and 22 of
the Private Pension Schemes Act**

1. Citation

These Rules may be cited as the Private Pension Schemes (Technical Funding Requirement) (Amendment) Rules 2022.

2. Interpretation

In these Rules –

“principal Rules” means the Private Pension Schemes (Technical Funding Requirement) Rules 2013.

3. Rule 2 of the principal Rules is amended by inserting, in the appropriate alphabetical order, the following new definitions –

“constitutive documents” has the same meaning as in the Act;

“investment policy” has the same meaning as in the Private Pension Schemes (Investment) Rules;

“investment reserve management policy” means a policy document that sets out the –

(cc)operation of the smoothing reserve including its utilisation and movement over time; and

(cd)policy on the annual interim and final rates of return as agreed by the governing body of the private pension scheme;

“smoothing reserve” means a reserve which enables the governing body of a private pension scheme to smooth out any return being paid to the members’ individual accounts and shall not imply any guarantee in relation to investment returns that shall be allocated to the members’ individual accounts;

“investment smoothing reserve ratio” means the percentage of the smoothing reserve to the total assets of the scheme.

4. The principal Rules are amended by inserting, after rule 10, the following new rule –

10A. Smoothing reserve

- (1) Where a private pension scheme maintains a smoothing reserve, the amount allocated to each member’s individual account from that reserve as determined by the governing body of the scheme after consultation with the actuary, shall be included in the technical provisions of each individual member.
- (2) The technical provisions for the scheme referred to in paragraph (1), shall be the aggregate of the technical provisions of all the individual members of that scheme and the balance of the smoothing reserve maintained by the scheme after allocation of returns to each individual member account.
- (3) The actuary shall disclose to the governing body of the scheme referred to in paragraph (1), on an annual basis –
 - (a) the relevant information on the smoothing reserve;
 - (b) the actual rate of return on investment as compared to the interim and final rates of return

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- being allocated from the smoothing reserve to the members' individual accounts; and
- (c) the investment smoothing reserve ratio as compared to the maximum ratio allowed in the investment reserve management policy of the scheme.
- (4) The private pension scheme shall disclose and submit to the Commission, under section 37(2)(f) of the Act, on an annual basis, the information referred to in paragraph (3).
- (5) A sponsoring employer shall not have any right whatsoever on any amount from the smoothing reserve at any point in time.
- (6) The actuarial report or the actuarial valuation report, as the case may be, of the private pension scheme referred to in paragraph (1), shall, in addition to the requirements in Rules 12 and 13, report on –
- (a) the smoothing reserve;
- (b) the allocation of interim and final returns;
- (c) compliance with the investment reserve management policy of the scheme; and
- (d) such other information as may be determined by the actuary of the scheme.
- (7) Where a private pension scheme maintains a smoothing reserve, the constitutive documents of the scheme shall provide for the constitution of the smoothing reserve and any other relevant information.

5. The principal Rules are amended by inserting, after rule 11, the following new rule –

11A. Calculation of technical provisions for a private pension scheme having a defined contribution section and a defined benefit section

Where a private pension scheme has a defined contribution section and a defined benefit section, the actuary shall apply Rules 10, 10A or 11, as may be applicable, for the calculation of its technical provisions.

6. The principal Rules are amended by inserting, after Part IV, the following new Part –

**PART IVA - INVESTMENT RESERVE MANAGEMENT
POLICY**

11B. Contents of the investment reserve management policy

- (1) Where a private pension scheme maintains a smoothing reserve, it shall have an investment reserve management policy that shall be-
 - (a) prepared and approved by its governing body in consultation with the actuary;
 - (b) signed by the Chairperson or any appointed representative of the governing body; and
 - (c) forthwith filed with the Commission.
- (2) When determining an investment reserve management policy, the governing body of the private pension scheme shall have regard to the-
 - (a) current and future investment strategy of the scheme;

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- (b) long-term objectives of the scheme in terms of expected rates of return;
 - (c) need to build sufficient reserves over a reasonable period of time;
 - (d) way that the smoothing reserve will need to be re-built following adverse movement in the prevailing local and international macroeconomic and market conditions; and
 - (e) risk appetite of the scheme.
- (3) The investment reserve management policy of a private pension scheme shall include the items specified in the Fifth Schedule.
 - (4) The investment reserve management policy shall be subject to actuarial review at intervals of not more than 3 years.
 - (5) The investment reserve management policy shall be consistent with the constitutive documents and the investment policy of the private pension scheme, these Rules, the Act and other relevant Acts.
 - (6) A private pension scheme shall notify the Commission of any alteration to its investment reserve management policy within 15 days from the approval of such alteration by the governing body.

11C. Application of Rules 10A and 11B

Rules 10A and 11B shall apply to –

- (a) a defined contribution scheme; or
- (b) a private pension scheme that has a defined contribution section and a defined benefit section;

provided that the defined contribution scheme or the defined contribution section of the private pension scheme, as applicable, maintains a smoothing reserve.

7. The principal Rules are amended by adding the Schedule set out in these Rules.

8. Commencement

These Rules shall come into operation on 16 April 2022.

Made by the Financial Services Commission on 29 March 2022.

SCHEDULE

(Rule 7)

FIFTH SCHEDULE

[Rule 11B(3)]

1. Description of the private pension scheme.
 2. Rationale for the operation of a smoothing reserve.
 3. Description of the investment return allocation methodology.
 4. The maximum level of investment smoothing reserve ratio, as agreed by the actuary and the governing body of the scheme, which shall be reasonable and justification shall be given as to how it is consistent with the investment strategy and profile of the scheme.
 5. The governing body's agreed policy in terms of building up the reserve and its utilisation over time under various economic scenarios.
 6. The governing body's agreed policy in regard to the interim and final rates of return applicable each year.
 7. Frequency in which the interim and final returns shall be allocated to the members' individual accounts.
 8. Frequency at which the policy document shall be reviewed.
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